



## **MEETING SUMMARY**

**Wednesday, November 18, 2015 1:00 p.m.**  
**House Room D, General Assembly Building**

The Joint Commission on Technology and Science held its final meeting of the 2015 interim on Wednesday, November 18, 2015. Delegate Tom Rust, chairman of JCOTS, called the meeting to order.

◆ **House Bill 1920 (Delegate LeMunyon): Virginia Consumer Protection Act**

Delegate Jim LeMunyon presented HB 1920 that was referred to JCOTS for study by the 2015 Session of the General Assembly. The bill relates to the provision of Voice Over Internet Protocol (VoIP) Services. The bill would allow a consumer with VoIP complaints to seek the assistance of the Office of the Attorney General through the Virginia Consumer Protection Act. Delegate LeMunyan said that currently, VoIP service is not regulated by the State Corporation Commission (SCC), but many providers of VoIP are legacy phone providers that are otherwise regulated by the SCC. Therefore, when a consumer has a complaint, they do not have anywhere in the state to turn. He said that the bill is not an attempt to regulate VoIP service, but instead is just attempting to give consumers a state entity to call with a complaint.

David Ogburn, representing Verizon spoke in opposition to the bill. VoIP services are regulated by the Federal Communications Commission (FCC), and there is a complaint link provided on the FCC website. He said that a second method to file a complaint that would only apply to legacy phone service providers was unnecessary. Rich Schollman, representing CenturyLink, noted that a regulatory scheme already exists.

Representatives of the Consumer Protection Section at the Office of the Attorney General said that a gap does exist. There is currently nowhere in the state with enforcement authority to assist consumers with a VoIP complaint. They said the question to consider is whether the General Assembly wants an agency in the state available to consumers.

After the presentation of HB 1920, no motion was made regarding the proposed legislation.

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- ◆ VITA Annual Report to JCOTS
  - Eric Link, Deputy Chief Information Officer, Virginia Information Technologies Agency

Eric Link provided an update on VITA activities, with a particular focus on the Commonwealth's options as the end of the Northrop Grumman contract approaches. A copy of the powerpoint presentation is available on the JCOTS website.

- ◆ House Bill 2037 (Delegate Bulova) : Motor carriers; use of personal information

Delegate David Bulova presented HB 2037 that was referred to JCOTS for study by the 2015 Session of the General Assembly. The bill would limit the by motor carriers of personal information of passengers, including trip data. Delegate Bulova said that his bill stems from the premise that trip data is personal information.

Representatives from Uber and Lyft spoke in opposition to the bill. They were concerned that the legislation was aimed specifically at Transportation Network Companies (TNCs), while a number of different companies and applications tract locational data. There was concern that this legislation, if adopted, would be the first locational data bill in the country. If legislation were to be recommended, the entire scope of locational data should be reviewed and considered -- and not just that used by motor carriers or TNCs.

Senator John Watkins said that the General Assembly had not yet adequately looked at the big picture related to privacy and locational data, and that it was premature to move forward, much less single out one particular industry. He motioned that the legislation not be recommended to the 2016 Session of the General Assembly. Delegate Glenn Davis seconded the motion, and the motion was adopted unanimously (Senator Steve Martin abstained from the vote).

Senator Watkins suggested that JCOTS look at the broad issue of data collection and how it is used by public and private entities as a part of its 2016 interim agenda.

- ◆ House Bill 2336 (Delegate Peace)/SB 1420 (Senator Reeves): IT procurement

JCOTS reviewed a draft proposal developed by the JCOTS workgroup reviewing IT procurement. The work group began its work as the result of HB 2336 (Peace) and SB 1420 (Reeves) being referred to JCOTS for study by the 2015 Session of the General Assembly.

The proposed draft took a different approach from the introduced bills. Upon discussion of the issues by the workgroup, it became apparent that the issue underlying concerns about liability in IT procurement related to a perceived inability by offerors to an IT-

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related Request for Proposal (RFP) to negotiate the liability requirements set forth in the RFP. Anecdotally, some entities noted that a response that proposed a different liability would be scored lower, and would not be invited to the negotiation table.

The proposed draft would prohibit a public body from requiring an offeror from stating in the proposal any exception to the liability provisions set forth in an RFP related to IT procurement. However, the offeror would be required to submit any such exception in writing at the beginning of the negotiation phase. The proposed draft used the existing definition of "information technology" found in § 2.2-2006 for purposes of the new language.

The technology community generally spoke in favor of the proposed draft. However, some local government representatives did not like the broad definition of information technology included in the draft, and said that they would like to keep working on the definition before the bill was introduced.

Delegate Davis motioned that the bill be recommended to the 2016 Session of the General Assembly, and the motion was seconded by Senator Watkins. The bill was unanimously recommended.

#### ◆ Cyber Security Advisory Committee Report

Delegate Davis presented an overview of the work of the Cyber Security Advisory Committee during the 2015 interim. The advisory committee developed four recommendations: (i) the development of a higher education research portal, (ii) the convening of a statewide cybersecurity conference, (iii) the establishment of K12 grants to be used to match funds raised by schools in support of STEM programs, and (iv) the establishment of a matching grant fund for private entities conducting cyber research and development in partnership with Virginia institutions of higher education. More details about the proposals can be found on the JCOTS website. Delegate Ken Plum motioned that the proposals be recommended to the 2015 Session of the General Assembly, and the motion was seconded by Senator John Miller. The proposals were unanimously recommended.

#### ◆ Privacy Expectation Afterlife & Choices Act Report

The Privacy Expectation Afterlife & Choices Act (Chapter 657 of Acts of Assembly of 2015) directed JCOTS to study the implementation of the act, and to make recommendations regarding access to electronic communications records and digital account content by guardian ad litem, conservators, and other fiduciaries.

Staff reported that workgroup met during the interim to discuss these issues. The workgroup recommended that no changes were warranted at this time related to fiduciaries. Given the brief amount of time that the new act had been in effect, there was not data available regarding the implementation of the act thus far.

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◆ Other Business

Delegate Ken Plum thanked Delegate Rust, Senator Martin, and Senator Watkins for their service on JCOTS, and their contributions to science and technology policy in the Commonwealth. This was the last scheduled meeting of JCOTS before their retirement.

◆ Adjourn

